UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

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TOWN & COUNTRY BANK.

Plaintiff(s),

Vs.

ORDER
(Application to Appoint Appraiser—#66)

BRIAN GODDARD,

Defendant(s).

BRIAN GODDARD,

Counterclaimant,

Vs.

TOWN & COUNTRY BANK, et al,

Counterdefendant.

Before the Court is Defendant Brian Goddard's **Application to Appoint Appraiser** (#66, filed November 22, 2010) to ensure an impartial appraisal of the property in question. Plaintiff filed its Opposition (#70), to which Defendant Goddard filed a Reply (#71).

This case arises out of a deficiency action by Plaintiff to recover the alleged deficiency between the amount owed on the Note and the amount the property sold for at the trustee's sale on or about February 3, 2009. Goddard petitions the Court to appoint an independent appraiser pursuant to N.R.S. §40.457. The Application will be denied.

Defendant Goddard's Application suggests that the Court has no discretion in the matter. The suggestion is inaccurate. The purpose of N.R.S. §40.457 is to obtain an independent and neutral appraisal when there is a significant discrepancy between the appraisals of the parties. However, a court's failure to appoint an appraiser even where there was a large discrepancy was not oppressive or arbitrary and there was not an abuse of discretion, nor is the court required to adopt the opinion of the appraiser. *See Unruh v. Streight*, 96 Nev. 684, 615 P.2d 247 (1980).

In this case there has been no showing of a huge discrepancy. In fact, Mr. Goddard did not obtain the services of an appraiser and Town & Country Bank has obtained its own appraiser in this matter. Now, it appears that Mr. Goddard wishes the Court to bear the burden of obtaining another appraiser in the apparent hope that a different appraisal will be more favorable to Defendant Goddard. The Court declines to take sides or provide Mr. Goddard an appraiser under these circumstances.

IT IS THEREFORE ORDERED that Defendant Brian Goddard's **Application to Appoint Appraiser** (#66) is DENIED.

Dated: March 29, 2011.

Roger/L. Hunt

Chief United States District Judge